

## **Historic, Archive Document**

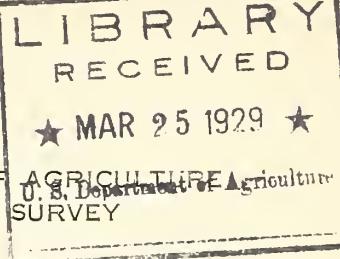
**Do not assume content reflects current scientific knowledge, policies, or practices.**



527  
Bi-1018

3-29

UNITED STATES DEPARTMENT OF AGRICULTURE  
BUREAU OF BIOLOGICAL SURVEY



ACQUISITION OF LAND BY PURCHASE, GIFT, OR LEASE  
UNDER THE MIGRATORY BIRD CONSERVATION ACT OF  
FEBRUARY 18, 1929

General Information.--The Act of Congress approved February 18, 1929 (Public No. 770--70th Cong., 2d Sess.) makes provision to meet more effectively the obligations of the United States under the Migratory-Bird Treaty with Great Britain by lessening the dangers threatening migratory game birds from drainage and other causes, through the acquisition by purchase, gift, or lease of areas of land and of water to furnish in perpetuity reservations for the adequate protection of such birds. The full text of the law is attached hereto.

Determination of Lands to be Acquired.--In order to carry out the purpose of the Act, it is necessary to ascertain by examination of the numerous potential areas to be found throughout the United States those that are best adapted for the purpose, to make appraisals in order to determine the character and value of them, and to conduct other activities incident to their acquisition with the funds made available by Congress from time to time for that purpose.

Approximately 125 potential units scattered throughout the United States have been selected for intensive study.

Character of Lands Desired.--The units selected for migratory-bird refuges must be of such character as to serve best the purposes contemplated under the Act. Usually they will be more or less extensive areas of lowland comprising marsh and woodland contiguous to or embracing water areas, or they may be areas that were formerly well suited as feeding and nesting grounds for migratory birds, but now useless by reason of drainage developments or evaporation and subject to restoration to their natural conditions.

Reservations.—Generally speaking, lands will not be considered for acquisition if owners desire to reserve any natural resources, real or assumed, in or upon the lands. There may be, however, special instances where conditions are such that departure from the general rule is warranted. Such cases will be considered on their merits, and if it is clear that the reservations desired will not interfere with peaceful occupation of the land by wild life, agreements may be reached allowing them.

Gifts.—Lands donated for refuge purposes under this Act will contribute materially to the success of the project, and all areas that are of suitable type and available as gifts are solicited as such, if they are sufficiently large to form an economical administrative unit or if they form part of a unit in process of acquisition.

Leases.—Unless the conditions surrounding a proposed lease of lands are very unusual, leases will not be entered into by the Government without an optional provision to buy.

Lands Offered for Purchase.—Lands offered at exorbitant prices will not be considered. The holding of lands at excessive prices in any unit will prevent the Government from undertaking purchases within it. Expectation values can not be considered in appraising lands, and expenditures made in futile efforts to drain lands must be discarded in arriving at prices to be paid for them.

In dealing for tracts on which owners make reservations, recognition must be given to the values of such reservations, and appropriately lower prices will be paid for the land so encumbered.

Small and Large Tracts Considered.—Proposals will be received for small as well as large tracts within the units designated for purchase, but only those lands that are desirable for wild-life purposes will be considered for acquisition.

Determination of Acreage.—Lands will be purchased only on the basis of an accurate survey by horizontal measurement, by recourse to the General Land Office records, or by both, and at a specified rate per acre. A proposal on the basis of a lump-sum price for the tract can not be considered.

Agents Not Necessary.--The placing of lands in the hands of an agent for disposal to the Government is ordinarily not necessary, as usually agents can give no practical assistance and the Secretary of Agriculture desires to deal direct with owners wherever practicable in making purchases. Optioned lands will not be considered.

Procedure in Making Purchases.--The general procedure in making purchases is for the owner to file with the Bureau of Biological Survey of the United States Department of Agriculture a proposal for sale of the land. An examination and appraisal will then be made at the earliest practicable date. After a price agreement has been reached, the owner will be asked to give an option for the sale of the land.

The Migratory Bird Conservation Commission will, upon recommendation of the Secretary of Agriculture, consider the desirability of purchasing the land at the price quoted in the option and in conjunction with the appraisal and valuation data previously assembled. Following favorable action by the Commission an agreement looking to the acquisition of the land will be completed, and title examination by the Government preliminary to conveyance of the land to the United States will be made.

Proposals for Sale of Lands.--Proposals are at present invited for lands that fulfil the requirements as herein set out. By addressing the Chief, Bureau of Biological Survey, Washington, D. C., a blank form of proposal for sale of lands may be obtained. This proposal after being filled out, with all essential details given, should be returned for consideration and proper disposition.



[PUBLIC—No. 770—70TH CONGRESS]  
[S. 1271]

An Act To more effectively meet the obligations of the United States under the migratory bird treaty with Great Britain by lessening the dangers threatening migratory game birds from drainage and other causes, by the acquisition of areas of land and of water to furnish in perpetuity reservations for the adequate protection of such birds; and authorizing appropriations for the establishment of such areas, their maintenance and improvement, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act shall be known by the short title of "Migratory Bird Conservation Act."

SEC. 2. That a commission to be known as the Migratory Bird Conservation Commission, consisting of the Secretary of Agriculture, as chairman, the Secretary of Commerce, the Secretary of the Interior, and two Members of the Senate, to be selected by the President of the Senate, and two Members of the House of Representatives to be selected by the Speaker, is hereby created and authorized to consider and pass upon any area of land, water, or land and water that may be recommended by the Secretary of Agriculture for purchase or rental under this Act, and to fix the price or prices at which such area may be purchased or rented; and no purchase or rental shall be made of any such area until it has been duly approved for purchase or rental by said commission. Any Member of the House of Representatives who is a member of the commission, if reelected to the succeeding Congress, may serve on the commission notwithstanding the expiration of a Congress. Any vacancy on the commission shall be filled in the same manner as the original appointment. The ranking officer of the branch or department of a State to which is committed the administration of its game laws, or his authorized representative, and in a State having no such branch or department, the governor thereof, or his authorized representative, shall be a member *ex officio* of said commission for the purpose of considering and voting on all questions relating to the acquisition, under this Act, of areas in his State.

SEC. 3. That the commission hereby created shall, through its chairman, annually report in detail to Congress, not later than the first Monday in December, the operations of the commission during the preceding fiscal year.

SEC. 4. That the Secretary of Agriculture shall recommend no area for purchase or rental under the terms of this Act except such as he shall determine is necessary for the conservation of migratory game birds.

SEC. 5. That the Secretary of Agriculture is authorized to purchase or rent such areas as have been approved for purchase or rental by the commission, at the price or prices fixed by said commission, and to acquire by gift or devise, for use as inviolate sanctuaries for migratory birds, areas which he shall determine to be

suitable for such purposes, and to pay the purchase or rental price and expenses incident to the location, examination, and survey of such areas and the acquisition of title thereto, including options when deemed necessary by the Secretary of Agriculture, from moneys to be appropriated hereunder by Congress from time to time: *Provided*, That no lands acquired, held, or used by the United States for military purposes shall be subject to any of the provisions of this Act.

SEC. 6. That the Secretary of Agriculture may do all things and make all expenditures necessary to secure the safe title in the United States to the areas which may be acquired under this Act, but no payment shall be made for any such areas until the title thereto shall be satisfactory to the Attorney General, but the acquisition of such areas by the United States shall in no case be defeated because of rights of way, easements, and reservations which from their nature will in the opinion of the Secretary of Agriculture in no manner interfere with the use of the areas so encumbered for the purposes of this Act; but such rights of way, easements, and reservations retained by the grantor or lessor, from whom the United States receives title, shall be subject to rules and regulations prescribed from time to time by the Secretary of Agriculture for the occupation, use, operation, protection, and administration of such areas as inviolate sanctuaries for migratory birds; and it shall be expressed in the deed or lease that the use, occupation, and operation of such rights of way, easements, and reservations shall be subordinate to and subject to such rules and regulations.

SEC. 7. That no deed or instrument of conveyance shall be accepted by the Secretary of Agriculture under this Act unless the State in which the area lies shall have consented by law to the acquisition by the United States of lands in that State.

SEC. 8. That the jurisdiction of the State, both civil and criminal, over persons upon areas acquired under this Act shall not be affected or changed by reason of their acquisition and administration by the United States as migratory bird reservations, except so far as the punishment of offenses against the United States is concerned.

SEC. 9. That nothing in this Act is intended to interfere with the operation of the game laws of the several States applying to migratory game birds in so far as they do not permit what is forbidden by Federal law.

SEC. 10. That no person shall knowingly disturb, injure, or destroy any notice, signboard, fence, building, ditch, dam, dike embankment, flume, spillway, or other improvement or property of the United States on any area acquired under this Act, or cut, burn, or destroy any timber, grass, or other natural growth, on said area or on any area of the United States which heretofore has been or which hereafter may be set apart or reserved for the use of the Department of Agriculture as a game refuge or as a preserve or reservation and breeding ground for native birds, under any law, proclamation, or Executive order, or occupy or use any part thereof, or enter thereon for any purpose, except in accordance with regulations of the Secretary of Agriculture; nor shall any person take any bird, or nest or egg thereof on any area acquired under this Act, except for scientific or propagating purposes under permit of the Secretary of Agriculture; but nothing in this Act or in any regulation thereunder

shall be construed to prevent a person from entering upon any area acquired under this Act for the purpose of fishing in accordance with the law of the State in which such area is located: *Provided*, That such person complies with the regulations of the Secretary of Agriculture covering such area.

SEC. 11. That for the purposes of this Act, migratory birds are those defined as such by the treaty between the United States and Great Britain for the protection of migratory birds concluded August 16, 1916.

SEC. 12. For the acquisition, including the location, examination, and survey, of suitable areas of land, water, or land and water, for use as migratory bird reservations, and necessary expenses incident thereto, and for the administration, maintenance, and development of such areas and other preserves, reservations, or breeding grounds frequented by migratory game birds and under the administration of the Secretary of Agriculture, including the construction of dams, dikes, ditches, flumes, spillways, buildings, and other necessary improvements, and for the elimination of the loss of migratory birds from alkali poisoning, oil pollution of waters, or other causes, for cooperation with local authorities in wild life conservation, for investigations and publications relating to North American birds, for personal services, printing, engraving, and issuance of circulars, posters, and other necessary matter and for the enforcement of the provisions of this Act, there are authorized to be appropriated, in addition to all other amounts authorized by law to be appropriated, the following amounts for the fiscal years specified—

\$75,000 for the fiscal year ending June 30, 1930;  
\$200,000 for the fiscal year ending June 30, 1931;  
\$600,000 for the fiscal year ending June 30, 1932;  
\$1,000,000 for the fiscal year ending June 30, 1933;  
\$1,000,000 for each fiscal year thereafter for a period of six years; and

\$200,000 for the fiscal year ending June 30, 1940, and for each fiscal year thereafter. Not more than 20 per centum of the amounts appropriated pursuant to this authorization for the fiscal year beginning July 1, 1930, and for each fiscal year to and including the fiscal year ending June 30, 1939, shall be expended for personal services in the District of Columbia and elsewhere incident to the administration and maintenance of acquired areas, printing, engraving, and issuance of circulars and posters. No part of any appropriation authorized by this section shall be used for payment of the salary, compensation, or expenses of any United States game protector, except reservation protectors for the administration, maintenance, and protection of such reservations and the birds thereon: *Provided*, That reservation protectors appointed under the provisions of this Act shall be selected, when practicable, from qualified citizens of the State in which they are to be employed. The Secretary of Agriculture is authorized and directed to make such expenditures and to employ such means, including personal services in the District of Columbia and elsewhere, as may be necessary to carry out the foregoing objects.

SEC. 13. That for the efficient execution of this Act, the judges of the several courts established under the laws of the United

States, United States commissioners, and persons appointed by the Secretary of Agriculture to enforce this Act, shall have, with respect thereto, like powers and duties as are conferred by section 5 of the Migratory Bird Treaty Act (title 16, section 706 of the United States Code) upon said judges, commissioners, and employees of the Department of Agriculture appointed to enforce the Act last aforesaid. Any bird, or part, nest or egg thereof, taken or possessed contrary to this Act, when seized shall be disposed of as provided by section 5 of said Migratory Bird Treaty Act.

SEC. 14. That any person, association, partnership, or corporation who shall violate or fail to comply with any of the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$10 nor more than \$500, or be imprisoned not more than six months, or both.

SEC. 15. That for the purposes of this Act the word "take" shall be construed to mean pursue, hunt, shoot, capture, collect, kill, or attempt to pursue, hunt, shoot, capture, collect, or kill, unless the context otherwise requires.

SEC. 16. Nothing in this Act shall be construed as authorizing or empowering the Migratory Bird Conservation Commission herein created, the Secretary of Agriculture, or any other board, commission, or officer, to declare, withdraw, or determine, except heretofore designated, any part of any national forest or power site, a migratory bird reservation under any of the provisions of this Act, except by and with the consent of the legislature of the State wherein such forest or power site is located.

SEC. 17. That when any State shall, by suitable legislation, make provision adequately to enforce the provisions of this Act and all regulations promulgated thereunder, the Secretary of Agriculture may so certify, and then and thereafter said State may cooperate with the Secretary of Agriculture in the enforcement of this Act and the regulations thereunder.

SEC. 18. That a sum sufficient to pay the necessary expenses of the commission and its members, not to exceed an annual expenditure of \$5,000, is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated. Said appropriation shall be paid out on the audit and order of the chairman of said commission, which audit and order shall be conclusive and binding upon the General Accounting Office as to the correctness of the accounts of said commission.

SEC. 19. That if any provision of this Act or the application thereof to any person or circumstance is held invalid the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 20. That this Act shall take effect upon its passage and approval.

Approved, February 18, 1929.